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In re Application of	:	
KREBSFANGER, Niels et al.	:	
Application No.: 10/018,320	:	DECISION ON
PCT No.: PCT/DE01/00597	:	
Int. Filing Date: 15 February 2001	:	PETITION
Priority Date: 14 March 2000	:	
Attorney Docket No.: 01-1637	:	UNDER 37 CFR 1.181
For: STABLE EXPRESSION OF	:	
POLYMORPHIC FORMS OF HUMAN	:	
CYTOCHROME	:	

This decision is in response to "Second Petition Under 37 C.F.R. 1.137(a)," filed with the United States Patent and Trademark Office on 05 September 2003. It has been treated as a petition under 37 CFR 1.181.

BACKGROUND

On 15 February 2001, applicants filed international application PCT/DE01/00597. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 20 September 2001. Accordingly, the twenty month period for paying the basic national fee in the United States expired on 14 November 2001.

On 12 November 2001, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 31 January 2002, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required and that the sequence listing contained in the application did not comply with 37 CFR 1.821-1.825.

On 09 January 2003, the Office mailed Notification of Abandonment (Form PCT/DO/EO/909) indicating that the application went abandoned.

On 31 January 2003, applicants submitted a petition.

On 12 August 2003, the Office mailed Decision On Petition Under 37 CFR 1.181, dismissing applicants' petition without prejudice.

On 05 September 2003, applicants submitted the instant renewed petition.

DISCUSSION

The showing required to establish nonreceipt of an Office communication is set forth in the notice entitled *Withdrawing the Holding of Abandonment When Office Actions Are Not Received*, 1156 O.G. 53 (Nov. 16, 1993). The showing must include: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement).

Items (1) and (2) were previously satisfied.

Item (3) has now been satisfied.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is GRANTED.

The Notification of Missing Requirements (Form PCT/DO/EO/905) mailed 31 January 2002 is VACATED.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 09 January 2003 is VACATED.

This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing, including mailing of a new Notification of Missing Requirements (Form PCT/DO/EO/905).



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